



# City of Santa Clara

**The Center of What's Possible**

**REQUEST FOR PROPOSALS  
FOR THE  
FREEDOM CIRCLE SPECIFIC PLAN**

**July 26, 2017**

**PROPOSALS DUE:  
Monday, August 28, 2017 at 3:00 PM**

**City of Santa Clara  
Planning Division  
1500 Warburton Avenue  
Santa Clara, CA 95050**

**Attn: John Davidson, Principal Planner  
(408) 615-2478  
JDavidson@santaclaraca.gov**

**A. INVITATION**

The City of Santa Clara is seeking proposals from qualified consultants to provide professional services for the development of the Freedom Circle Specific Plan. (Please refer to map in Attachment A to see the planning area.)

The City is seeking an experienced and innovative planning firm (along with a multidisciplinary consultant team) with demonstrated knowledge and experience in land use planning and urban design principles, transit-oriented development, participatory community planning (with experience in partnering with local community organizations and government agencies), computer graphics, public infrastructure engineering, transit planning, traffic circulation and parking analysis, environmental review and economic, market and financial analysis. The selected consulting firm will produce the Specific Plan under staff direction with participation from owners and developers within the planning area, as well as interested Santa Clara residents, businesses, property owners, and community leaders.

**B. BACKGROUND and OBJECTIVES**

The Freedom Circle Specific Plan is envisioned for the creation of a high intensity, urban mixed-use neighborhood that supports a high quality of life for future residents. Key objectives for the Plan include:

1. Placemaking – the Plan should support the development of a complete neighborhood that incorporates public and private amenities, including parklands and other open spaces, along with services, organized into an attractive, walkable urban environment.
2. Equity – the Plan should distribute the anticipated future costs and benefits of new development among property owners in an equitable manner.
3. Feasibility – the Plan should include a land use plan and implementation tools as necessary to provide for a straight-forward, streamlined implementation process.
4. Economic Sustainability – preparation of the Plan should include an analysis of the economic and fiscal impacts of the conversion of land from commercial/industrial to residential use and an evaluation of potential off-setting conversion of other existing commercial/industrial lands designated for future residential use within the General Plan. The Plan should also consider the retention of key industrial or commercial sites within the Plan area to maximize the overall economic benefit of future land uses and to produce a complete community.

The City of Santa Clara adopted its comprehensive 2010-2035 General Plan in November 2010 which designated several Future Focus Areas throughout the City to support and foster the City's diverse economic and cultural base. Although the Freedom Circle Future Focus Area was not designated in the City's 2010-2035 General Plan as a Future Focus Area allowing conversion to residential use, the City is now interested in changing the General Plan designation for the area to support future residential development. The proposed Freedom Circle Area, along with other future focus areas, will provide opportunities for reaching housing goals identified in the City's share of the State-required Regional Housing Needs Allocation (RHNA), for meeting the demand for housing that addresses job and retail growth in the City and region and for using land more efficiently at high, urban densities. For additional policy background see General Plan Section 5.1: Prerequisites and Section 5.4.5: Future Focus Area Goals and Policies.

The goal of providing a vital neighborhood in this area of the City can be supported by the following planning objectives: a coordinated and complementary array of projects among several landholder interests that include the development of necessary access and utility infrastructure, high-intensity office uses, housing density ranging over 100 units per acre, adequate open space and recreational amenities that contribute to a strong sense of place, supportive commercial services and possibly schools and other public services.

**C. TIMELINE**

Upon the close of the outreach for proposals in August 2017, proposals will be evaluated and interviews set for the most qualified consultant teams. From the close of bids, selection of the most qualified team and preparation of a contract for City Council consideration is anticipated to last four (4) to six (6) weeks. Upon Council approval of a contract, the consultant team and staff will begin strategy sessions immediately and will engage landowners and developers within 2-3 weeks. From contract approval to completion of the plan and environmental document is anticipated to be 15-18 months in duration.

**D. PROJECT LOCATION**

The proposed Freedom Circle focus area is approximately 138 acres in gross land area and is located in north Santa Clara, bounded generally by Highway 101 to the south, Great America Parkway to the west, a combination of Patrick Henry Drive and the Great America theme park to the north, and San Tomas Aquino Creek to the east. Public transit is available on Great America Parkway and Mission College Boulevard. The Freedom Circle area contains 16 light industrial properties and four public streets, with access to Great America Parkway and Highway 101.

**E. PROJECT GUIDELINES**

The Freedom Circle Plan should include the land use planning elements required for to support redevelopment of the area as a mixed-use urban community. It should define both the land use plan for the area as well as policies, zoning, design guidelines, parking policies, streetscape design standards, open space and public facility requirements, etc. as need to support the Plan vision. The Plan should be sufficiently detailed to serve as an implementation tool, and should include zoning standards for the area that will streamline future development activity. In addition the Plan should outline infrastructure needs and an equitable financing strategy to fund those improvements. Key components of the planning effort include:

- Establishment of a land use plan and policy framework that shall guide future development and redevelopment activities within the area toward transit supportive uses and improvements.
- Improvement of vehicular, pedestrian, bicycle and transit connectivity between existing and future commercial and residential areas and nearby public transportation.
- Evaluation and recommendations to meet infrastructure needs and public service levels for the neighborhood in the context of the surrounding area, including financial analysis to allocate fair share cost burdens related to public facilities, community benefits, and the like.
- Development and implementation of urban design standards for streets, streetscapes, buildings and open space, which promote walkable and livable environments within the project area.

- Preparation of a program level environmental impact report (EIR including technical studies for traffic, air quality, and infrastructure).
- Engagement with the public about transit-oriented design concepts and the Freedom Circle Area planning process through a comprehensive community involvement strategy.

The selected consultant, with assistance from City of Santa Clara staff, shall conduct public workshops which shall inform citizens about the project and the process. Participation of property owners, community groups, and interested citizens shall be an important element of the project. A comprehensive public outreach plan shall be developed to engage and educate the public about the Freedom Circle Specific Plan process, provide opportunities for the public to discuss issues and participate in the formulation and selection of preferred concepts in community meetings. The plan shall include methods to include community groups and minority, low income, youth, renter, and non-English speaking populations.

The project shall include the formation of a stakeholder steering group comprised of property owners and developers. This group will work closely with City staff and the consultant team on technical aspects of the plan, including land uses, densities, connectivity, and other objectives of the draft plan. The stakeholder group meetings will serve as the primary outreach meeting for affected property owners in the Freedom Circle Specific Plan Area.

The project may also include the formation of a Technical Advisory Committee (TAC) to involve other public agencies (VTA, City of San Jose, Santa Clara Unified School District and others), technical experts (consultant team), and staff from various departments in the City of Santa Clara, including but not limited to Community Development, Public Works, Water & Sewer Utilities, Parks & Recreation, Electric Utility, Police and Fire services. The TAC's role is to advise on the concept and guide the project through the work tasks described more fully below.

## **F. PROJECT DESCRIPTION**

As a result of the City Council's April 11 General Plan Status Review, the City has decided to proceed with preparation of the Freedom Circle Specific Plan as a part of Phase II of the General Plan. Because the Freedom Circle area was not considered as a part of the first two Phases of the General Plan, the City will be required to prepare prerequisite studies per Chapter 5.1 of the General Plan.. Given that the Freedom Circle area is located at a central and prominent location within north Santa Clara, the City expects the Specific Plan to call for mixed use developments involving both High Intensity Office (with Floor Area Ratios up to 2.0) and residential densities over 100 DU/AC. The following section describes in detail the specific tasks that are expected to be completed to create and finalize the Specific Plan of the area.

### **TASK 1: COMMUNITY INVOLVEMENT PLAN**

The successful consultant shall develop a collaborative involvement plan for the project. The City will partner with local and regional community based organizations as well as engage in directed education and outreach efforts involving the diverse population of Santa Clara. Regular meetings will be scheduled with community stakeholders to ensure that their input and feedback is included at specific points of plan development. Specific deliverables include:

**Deliverable 1a: A community involvement plan (details of who will be engaged and when, along with the strategies that will be used to engage them).**

- Deliverable 1b:** Materials for distribution at community and TAC meetings (draft and final versions of maps, handouts etc. as they are prepared).
- Deliverable 1c:** Tentative timeline for TAC and broader community outreach meetings that are coordinated with project milestones.
- Deliverable 1d:** Meeting minutes, public comment summaries, survey or focus group summaries (as appropriate).

## **TASK 2: PREREQUISITE STUDIES**

In order to proceed with development in a new residential area not included as a Focus Area within Phase I or Phase II of the General Plan, the City will be required to prepare prerequisite studies as indicated in Section 5.1 of the General Plan. The successful consultant proposal shall have a plan to assess and develop the required prerequisite studies, including but not limited to:

- Evaluation of measures to maintain a parkland ratio of between 2.53 and 3 acres of parkland per 1,000 residents.
- A comprehensive assessment of water, sanitary sewer conveyance, wastewater treatment, solid waste disposal, storm drain, natural gas, and energy demand and facilities in order to ensure adequate capacity and funding to implement the necessary improvements to support development in the next phase.
- An evaluation of the fiscal health and potential for a balanced budget in order to ensure ongoing adequate public services for existing, as well as for new, development.
- An evaluation of appropriate measures to maintain emergency response time standards.
- A plan identifying bicycle, pedestrian and transit improvements that could off-set at least ten percent of anticipated vehicle miles traveled from development assumed in that phase.
- Evaluation of the effects of this change to the City's jobs/housing balance, since the General Plan did not anticipate that this area would allow residential uses, including whether other industrial areas planned for conversion to residential should continue to be planned for conversion or preserved long-term for commercial and/or industrial uses.

## **TASK 3: ALTERNATIVES DEVELOPMENT, SELECTION OF A PREFERRED ALTERNATIVE, AND DEVELOPMENT OF URBAN DESIGN, STREETScape AND OPEN SPACE STANDARDS**

### **Task 3.1: ALTERNATIVES DEVELOPMENT**

The consultant shall facilitate a TAC Meeting and a Stakeholders' Meeting to collect feedback on the Freedom Circle Focus Area, including the range of issues, project recommendations, and potential drivers and project indicators for the development of a plan for the subject area. These considerations shall lead to the development of a project vision statement, project indicators, and preliminary bubble diagram concepts that start to establish the range of project alternatives. This discussion and exercise shall serve as a starting point for the development of draft plan alternatives.

The consultant shall develop up to three draft alternatives for the Focus Area, illustrating conceptual alternatives for land use, density, corridor connectivity, public spaces, community facilities, site development and reuse, urban design concepts, and other elements identified by the TAC and stakeholders, expressed as a series of site plan diagrams, text and tables for the Plan Area Focus. These alternatives shall be based on the work of earlier tasks and input received throughout the planning process. The draft alternatives shall be accompanied by appropriate maps, tables, and graphics.

The consultant shall present the conceptual alternatives at a subsequent TAC Meeting and Stakeholders' Meeting and work closely with both groups to refine the plan alternatives to best meet project goals and the issues and concerns expressed by the public.

**Deliverable 3.1:** Up to three draft alternatives and accompanying descriptions, diagrams,

**development tables, pros and cons comparison, and summary of the effectiveness of each alternative in meeting project goals and indicators or addressing significant issues project issues.**

### **Task 3.2: PREFERRED ALTERNATIVE**

The consultant, in consultation with the City of Santa Clara and the community, shall develop a preferred land use and circulation alternative to serve as the basis for the Draft Freedom Circle Plan.

To complement the land use and circulation preferred alternative, the consultant shall develop design and streetscape standards based on input from community outreach meetings. The urban design standards shall address transit oriented design, including general design concepts for public spaces, street design by type and function of street, building form and orientation, street furniture, street lighting, street trees and landscaping, decorative sidewalks, utility vaults/cabinets, special design treatments for bicycle and pedestrian connections to or at the rail station and bus stops, and to other areas outside the neighborhood. Accessible design for elderly and disabled persons and accessible paths of travel from public transportation through the Specific Plan area shall be addressed.

The successful consultant shall assess open space needs resulting from future development in the area and identify general locations for public and private open space. An open space framework plan shall be prepared to meet this objective. The proposal shall also offer at least one means to address the cost sharing of open space acquisition and development among area developers.

The successful consultant shall present the preferred land use and circulation alternative and the draft urban design, streetscape and open space standards at community outreach meetings. The public will be asked to respond to the preferred plan and design standards. Input received shall be used to refine the alternative and develop the Draft Freedom Circle Plan.

**Deliverable 3.2a: Large format graphic illustrating preferred alternative, draft Urban Design and Streetscape Standards and report**

**Deliverable 3.2b: Open Space Framework Plan (public parks and private open space)**

**Deliverable 3.3c: TAC and Stakeholders' meeting summaries**

### **TASK 4: INFRASTRUCTURE DEVELOPMENT, BUDGET AND FINANCING STRATEGY**

The successful consultant shall prepare an Infrastructure Development and Financing Strategy to determine, at an engineering level, the infrastructure necessary to support the land uses and improvements identified in the preferred land use and circulation alternative and the design standards. Analysis supporting the strategy should describe the infrastructure conditions and improvements needed to support the anticipated development in terms of water, wastewater, storm drainage, sanitary sewer, roadways, electricity and gas, cable, telephone service, parks, schools, libraries, telecommunications and other civic needs. The analysis shall provide information to the EIR and include any improvements identified in the program EIR identified as mitigation. The analysis shall also include a preliminary stormwater management plan for the program area.

The analysis shall include preliminary cost estimates, phasing recommendations for improvements categorized by system, geography, or phased capacity improvements and recommended funding strategies.

**Deliverable 4a: Infrastructure Development and Budget Report**

**Deliverable 4b: Financing Report**

**Deliverable 4c: TAC meeting summary**

**Deliverable 4d: Community meeting summaries**

### **TASK 5: IMPLEMENTATION PLAN**

The successful consultant shall identify specific action items to implement each element of the Freedom Circle Plan, including zoning code and General Plan updates, with timelines for completion of each. Code updates shall be completed concurrent with the Specific Plan and are expected to be approved immediately after plan adoption.

#### **Deliverable 5: Implementation Plan for each element of Freedom Circle Plan (with timeline)**

### **TASK 6: PREPARATION OF THE FOCUS AREA PLAN**

The successful consultant shall prepare the Draft Freedom Circle Plan. The Plan shall serve as the city's long range, comprehensive land use, circulation, and implementation plan for guiding development within the plan boundary. The Plan shall contain the following components:

- **Planning Process:** Description of the process to develop the plan and the role the public played in creating the plan.
- **Land Use/Housing:** Description of land use designations, including a total number of units, range of densities, square footage of non-residential uses, mixed use, and employment generating land uses. Population and job projections shall be included.
- **Transportation and Parking:** Description of circulation for motor vehicles, transit, bicycles, and pedestrians. New streets, paths and connections to existing roadways shall be included. Parking management strategies and TOD parking ratios shall be identified, based on the prior Parking Demand Analysis.
- **Transportation Demand Management:** The Plan shall develop a range of Transportation Demand Management (TDM) measures that may be applied to future development projects. The plan should consider the formation of a Transportation Management Agency (TMA) to administer the various TDM programs. These TDM measures should include ways to maximize the use of walking, bicycling and transit as commute alternatives.
- **Transit Access and Connectivity Plan:** Shall address access to nearby public transportation by walking, bicycling, driving, and transit as well as circulation for these modes throughout the area, including connectivity to the San Tomas Aquino Creek Trail as a key goal. Accessible design for disabled and elderly persons shall be a component of this section, including accessible paths of travel to the creek train and public transportation assets within one half mile.
- **Design and Streetscape Standards:** Shall include policies and standards to promote pedestrian friendly design to increase pedestrian comfort and safety in walking throughout the neighborhood, with special emphasis on walking to public transit.
- **Public Realm Improvements:** Standards to enhance overall livability of the area shall also be included. These include placemaking strategies, parking structures, transit stop improvements, security, lighting, signage, etc.
- **Public Services:** Shall include information about services and infrastructure needed to implement the plan. Shall include specific policies regarding utilities, public safety, parks, schools, libraries, and cultural facilities.
- **Open Space Plan:** Shall address the provision for adequate public and private open space as an integral part of the conceptual land-use alternatives.
- **Implementation Plan:** Shall identify actions and strategies for plan implementation, along with completion date estimates or triggers for phasing. The Plan shall also include infrastructure improvements needed for plan implementation, including parkland and roadways, and specific financing strategies to enable these improvements. The implementation plan shall also include

an evaluation of projected costs and revenues associated with the development of the Freedom Circle Area, and its potential effects on the City's budget.

The successful consultant shall conduct Community Meetings following preparation and release of the Draft Freedom Circle Plan to receive public comment and input.

**Deliverable 6a: Draft Freedom Circle Specific Plan**

**Deliverable 6b: Community Outreach Meeting Summary**

#### **TASK 7: PREPARATION OF PROGRAM/PROJECT EIR**

The successful consultant shall prepare a Project-level Environmental Impact Report (EIR) which shall thoroughly and adequately assess the impacts of the draft plan and comply with the provisions of the CEQA and the applicable regulations thereunder. The successful consultant shall also prepare responses to comments received during the public review period, a mitigation monitoring and reporting program, and statement of overriding considerations, as necessary. The EIR shall address all required CEQA topics, including the following areas:

- **Land Use Consistency and Compatibility:** The EIR shall describe existing land use and development patterns and evaluate the proposed project's consistency with adopted city plans and policies.
- **Population, Housing and Employment:** The EIR shall analyze projected population, housing and employment impacts of the draft Area Plan.
- **Transportation and Circulation:** A traffic study shall be completed to determine the project's impacts to the existing and proposed roadway system, existing and proposed bikeway network, transit systems (bus and light rail) and pedestrians. Corridor levels of service shall be determined for regional/arterial streets. The transportation impact analysis shall be prepared consistent with the VTA's Transportation Impact Analysis Guidelines, adopted October 2014.
- **Air Quality:** The EIR shall address the project's impact on air pollutants and their precursors as well as localized carbon monoxide impacts utilizing the appropriate air quality modeling tools. The analysis shall address both operational (long term) and construction level (short term) impacts on local and regional air quality as well as an analysis of impacts on sensitive receptors.
- **Noise:** The EIR shall address the potential impacts on ambient noise levels from any construction related noise as well as potential impacts on ambient noise from (and to) the proposed project (buildout of proposed land uses).
- **Biological Resources:** The EIR shall analyze the project's short term (construction) impacts as well as long term impacts on biological resources, including special status species.
- **Water/Wastewater:** The EIR shall analyze and address the project's construction and operational impacts to the water and wastewater systems, water supply and wastewater capacity to serve buildout of the General Plan. A Water Supply Assessment shall be completed for the project and shall be available to the EIR consultant.
- **Hydrology/Flooding:** The EIR shall analyze the stormwater system, potential flooding impacts and water quality.
- **Public Services:** The EIR shall evaluate the potential impacts to public services such as schools, parks, solid waste disposal, police, fire, and utilities.
- **Cultural and Historic Resources:** The EIR shall evaluate potential impacts to cultural and historic resources.
- **Visual Quality:** Scenic, natural, cultural and historic assets will be evaluated and potential impacts of the project identified.
- **Geology and Seismicity:** The EIR shall examine geologic and seismic conditions, addressing ground shaking and liquefaction potential from earthquakes.



- **Hazardous Materials/Toxics:** The EIR shall evaluate sites in the plan area which are potentially contaminated.
- **Energy/Climate Change:** Changes in energy consumption anticipated through implementation of the draft Plan shall be analyzed. Greenhouse gas emissions anticipated with the project shall be included. The EIR shall analyze how development anticipated by the plan shall be affected by climate change and how implementation of the plan shall affect climate change. While analysis of this topic is evolving, this EIR shall include the most current thinking and practice regarding impacts of greenhouse gas emissions, including a discussion of the Plan's consistency with the adopted Climate Action Plan.
- **Alternatives Analysis and Assessment of Cumulative impacts:** The EIR shall include an alternatives analysis that includes, at a minimum, a No Project alternative, an Reduced Density Alternative, and a location alternative using a Phase III focus area for comparison. The EIR shall also include an analysis of cumulative impacts from other anticipated developments in combination with the implementation of the Freedom Circle Plan.

**Deliverable 7: Draft Environmental Impact Report (including all necessary paper copies, 15 copies on CD for distribution to the State Clearinghouse by the consultant, and a PDF copy for posting on the City's website).**

#### **TASK 8: EIR CERTIFICATION AND ADOPTION OF THE FREEDOM CIRCLE SPECIFIC PLAN**

The successful consultant shall present the Draft Freedom Circle Plan and EIR at public hearings before the Planning Commission and City Council. The City and consultant shall make any final revisions to Freedom Circle Plan and EIR based on changes dictated by either the Planning Commission or City Council. Staff anticipates four (4) public hearings and four (4) study sessions.

**Deliverable 8a: Final Environmental Impact Report with Mitigation, Monitoring and Reporting Program, including all necessary paper and PDF copies**

**Deliverable 8b: Adopted Freedom Circle Plan, including General Plan, Zoning, and Design Guidelines amendments required to implement the plan**

### **G. PROPOSAL CONTENT**

The City discourages overly lengthy proposals. However, the proposal shall include the following information at a minimum:

1. Proposer's complete name, business address, and telephone number and the name, mailing address, and telephone number of person the City should contact regarding the proposal.
2. A description of the proposer's organization, including names of principals, number of employees, longevity, client base, areas of specialization and expertise and any other pertinent information in such a manner that proposal evaluators may reasonably formulate an opinion about the stability and financial strength of the organization.
3. A complete disclosure of any prior or ongoing incidents as to which it is alleged that proposer has defaulted or failed to perform which has led the other party to terminate the contract. Identify the parties involved and the circumstances of the default or termination. Also describe any civil or criminal litigation or investigation pending which involves proposer or in which proposer has been judged guilty or liable.
4. Names, qualifications, and experience of the proposed project team, including examples of projects of similar scope undertaken in the past three years.

5. Three references for which the proposer has performed similar services of similar scope within the past three years. Include the organization name and address, the name and telephone number of a contact person, and a brief description of the services performed by the consulting firm.
6. A narrative statement that illustrates the proposer understands the project requirements.
7. A narrative statement that sets out the project management methodology the proposer intends to employ and that illustrates how this methodology will serve to perform the described services.
8. A description of the management plan proposer intends to employ for the project and an explanation of how it will support all project requirements and logically lead to the required deliverables. The description must include the organization of the project team, including accountability and lines of authority.
9. A detailed project schedule for completion of the project. The City assumes consultant completion of the project by April 2019 and the project schedule submitted should outline the completion dates associated with each task listed in the project description.
10. A detailed cost proposal (broken down by tasks) which shall be submitted in a separate, sealed envelope.
11. Any exceptions taken to the proposed contract language (Attachment B). Exceptions to the City's contractual terms and conditions must be identified in writing as part of the proposal response. If no exceptions are noted, the proposer waives its right to make changes to the City's agreement.
12. The signature(s) of the company officer(s) empowered to bind the firm, with the title of each (e.g. president, general partner).

#### **H. EVALUATION OF PROPOSALS**

Proposals will be evaluated by a team of City employees. Points will be assigned based on the proposer's effectiveness and efficiency in supporting each item being rated.

<u>Criteria</u>	<u>Possible Points</u>
1. Adherence to the requirements of this Request for Proposals.	15
2. Depth of project team's experience and its relevance to the project described in this Request for Proposals.	30
3. Proposer's understanding of project requirements.	25
4. Proposed methodology and management plan for the project.	30
5. Proposed timeline for completion of services.	10
6. Amount of total work plan and comprehensiveness of each task proposed	20
7. Overall cost/value to the City	20
<b>Total Possible Points</b>	<b>150</b>

The City will evaluate proposals on the basis of each proposer's written submittal. The top-rated proposers will be invited to the City for panel interviews.

**I. SELECTION PROCESS**

The City's Planning Division will recommend to the Santa Clara City Council an award of contract based on the proposal that provides the best value to the City. The City's selection and evaluation timeline is as follows:

**RFP issued – July 26<sup>th</sup>**

**RFP due date – August 28<sup>th</sup>**

**Proposal review – late August/early September**

**Notification of consultants – September 7**

**Consultant interviews, if necessary – September 18-19**

**Contract negotiations – September/October**

**Council award of contract – October**

**J. CONTRACT AND OTHER REQUIRED DOCUMENTS**

The successful proposer shall submit the following documents to the Planning Division after award of the contract:

1. A Consultant Services Agreement executed in duplicate by the successful proposer.
2. Evidence of the required insurance coverage.
3. A Santa Clara business license application and fee if proposer does not already possess such license.
4. A completed Internal Revenue Form W-9.

**K. DEADLINE FOR SUBMISSION OF PROPOSALS**

Proposer shall submit five (5) copies of its proposal, along with a copy in PDF form, to:

**John Davidson, Principal Planner  
Planning Division  
1500 Warburton Avenue  
Santa Clara, CA 95050**

To be considered, proposals must be received at the address in the above paragraph by 3 p.m. on Monday, August 28<sup>th</sup>, 2017. Late proposals will not be considered.

**L. CONTACT PERSON**

Inquiries relating to this Request for Proposals and/or the required services should be directed to:

**John Davidson, Principal Planner  
Telephone: (408) 615-2478  
[JDavidson@santaclaraca.gov](mailto:JDavidson@santaclaraca.gov)**



## Freedom Circle Specific Plan Area



EBIX Insurance No. \_\_\_\_\_

**AGREEMENT FOR THE PERFORMANCE OF SERVICES  
BY AND BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
\*INSERT CONTRACTOR'S NAME**

**PREAMBLE**

This agreement for the performance of services ("Agreement") is by and between \*insert Contractor's name, a[n] \*choose one: a \_\_\_\_\_ (enter State name) corporation/partnership/individual, with its principal place of business located at \*insert Contractor's address ("Contractor"), and the City of Santa Clara, California, a chartered California municipal corporation with its primary business address at 1500 Warburton Avenue, Santa Clara, California 95050 ("City"). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

**RECITALS**

- A. City desires to secure professional services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services"; and
- B. Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of City; and,
- C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

**AGREEMENT PROVISIONS**

**1. EMPLOYMENT OF CONTRACTOR.**

City hereby employs Contractor to perform services set forth in this Agreement. To accomplish that end, City may assign a Project Manager to personally direct the Services to be provided by Contractor and will notify Contractor in writing of City's choice. City shall pay for all such materials and services provided which are consistent with the terms of this Agreement.

**2. SERVICES TO BE PROVIDED.**

Except as specified in this Agreement, Contractor shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise (collectively referred to as "Services") to satisfactorily complete the work required by City at his/her own risk and expense. Services to be provided to City are



more fully described in Exhibit A entitled "SCOPE OF SERVICES." All of the exhibits referenced in this Agreement are attached and are incorporated by this reference.

### **3. COMMENCEMENT AND COMPLETION OF SERVICES.**

- A. Contractor shall begin providing the services under the requirements of this Agreement upon receipt of written Notice to Proceed from City. Such notice shall be deemed to have occurred three (3) calendar days after it has been deposited in the regular United States mail. Contractor shall complete the Services within the time limits set forth in the Scope of Services or as mutually determined in writing by the Parties.
- B. When City determines that Contractor has satisfactorily completed the Services, City shall give Contractor written Notice of Final Acceptance. Upon receipt of such notice, Contractor shall not incur any further costs under this Agreement. Contractor may request this determination of completion be made when, in its opinion, the Services have been satisfactorily completed. If so requested by the contractor, City shall make this determination within fourteen (14) days of its receipt of such request.

### **4. QUALIFICATIONS OF CONTRACTOR - STANDARD OF WORKMANSHIP.**

Contractor represents and maintains that it has the necessary expertise in the professional calling necessary to perform services, and its duties and obligations, expressed and implied, contained herein, and City expressly relies upon Contractor's representations regarding its skills and knowledge. Contractor shall perform such services and duties in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.

The plans, designs, specifications, estimates, calculations, reports and other documents furnished under Exhibit A shall be of a quality acceptable to City. The criteria for acceptance of the work provided under this Agreement shall be a product of neat appearance, well organized, that is technically and grammatically correct, checked and having the maker and checker identified. The minimum standard of appearance, organization and content of the drawings shall be that used by City for similar projects.

### **5. TERM OF AGREEMENT.**

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on the Effective Date of this Agreement and terminate on **\*insert end date**.

### **6. MONITORING OF SERVICES.**

City may monitor the Services performed under this Agreement to determine whether Contractor's operation conforms to City policy and to the terms of this Agreement. City may also monitor the Services to be performed to determine whether financial operations are conducted in accord with applicable City, county, state, and federal requirements. If

any action of Contractor constitutes a breach, City may terminate this Agreement pursuant to the provisions described herein.

**7. WARRANTY.**

Contractor expressly warrants that all materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect, and shall conform to the specifications, requirements, and instructions upon which this Agreement is based. Contractor agrees to promptly replace or correct any incomplete, inaccurate, or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the cost incurred by City.

**8. PERFORMANCE OF SERVICES.**

Contractor shall perform all requested services in an efficient and expeditious manner and shall work closely with and be guided by City. Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it. Contractor will perform all Services in a safe manner and in accordance with all federal, state and local operation and safety regulations.

**9. BUSINESS TAX LICENSE REQUIRED.**

Contractor must comply with Santa Clara City Code section 3.40.060, as that section may be amended from time to time or renumbered, which requires that any person who transacts or carries on any business in the City of Santa Clara pay business license tax to the City. A business tax certificate may be obtained by completing the Business Tax Affidavit Form and paying the applicable fee at the Santa Clara City Hall Municipal Services Division.

**10. RESPONSIBILITY OF CONTRACTOR.**

Contractor shall be responsible for the professional quality, technical accuracy and coordination of the Services furnished by it under this Agreement. Neither City's review, acceptance, nor payments for any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement and Contractor shall be and remain liable to City in accordance with applicable law for all damages to City caused by Contractor negligent performance of any of the Services furnished under this Agreement.

Any acceptance by City of plans, specifications, construction contract documents, reports, diagrams, maps and other material prepared by Contractor shall not in any respect absolve Contractor from the responsibility Contractor has in accordance with customary standards of good professional practice in compliance with applicable federal, state, county, and/or municipal laws, ordinances, regulations, rules and orders.

**11. COMPENSATION AND PAYMENT.**

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and services rendered by Contractor at the rate per hour for labor and cost per unit for materials as outlined in Exhibit B, entitled "SCHEDULE OF FEES."

Contractor will bill City on a monthly basis for Services provided by Contractor during the preceding month, subject to verification by City. City will pay Contractor within thirty (30) days of City's receipt of invoice.

**12. TERMINATION OF AGREEMENT.**

Either Party may terminate this Agreement without cause by giving the other Party written notice ("Notice of Termination") which clearly expresses that Party's intent to terminate the Agreement. Notice of Termination shall become effective no less than thirty (30) calendar days after a Party receives such notice. After either Party terminates the Agreement, Contractor shall discontinue further services as of the effective date of termination, and City shall pay Contractor for all Services satisfactorily performed up to such date.

**13. NO ASSIGNMENT OR SUBCONTRACTING OF AGREEMENT.**

City and Contractor bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Contractor shall not hire subcontractors without express written permission from City.

**14. NO THIRD PARTY BENEFICIARY.**

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

**15. INDEPENDENT CONTRACTOR.**

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of City. Contractor has full rights, however, to manage its employees in their performance of Services under this Agreement. Contractor is not authorized to bind City to any contracts or other obligations.

**16. NO PLEDGING OF CITY'S CREDIT.**

Under no circumstances shall Contractor have the authority or power to pledge the credit of City or incur any obligation in the name of City. Contractor shall save and hold harmless the City, its City Council, its officers, employees, boards and commissions for expenses arising out of any unauthorized pledges of City's credit by Contractor under this Agreement.



**17. CONFIDENTIALITY OF MATERIAL.**

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor and shall not, without the prior written consent of City, be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Contractor which is otherwise known to Contractor or becomes generally known to the related industry shall be deemed confidential.

**18. USE OF CITY NAME OR EMBLEM.**

Contractor shall not use City's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of City.

**19. OWNERSHIP OF MATERIAL.**

All material, including information developed on computer(s), which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Contractor may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties.

**20. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR.**

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for three (3) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City.

Contractor shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Contractor agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

**21. CORRECTION OF SERVICES.**

Contractor agrees to correct any incomplete, inaccurate or defective Services at no further costs to City, when such defects are due to the negligence, errors or omissions of Contractor.

**22. FAIR EMPLOYMENT.**

Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, gender, sexual orientation, age, disability, religion, ethnic background, or marital status, in violation of state or federal law.

**23. HOLD HARMLESS/INDEMNIFICATION.**

To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and reasonable attorney's fees in providing a defense to any claim arising therefrom, for which City shall become liable arising from Contractor's negligent, reckless or wrongful acts, errors, or omissions with respect to or in any way connected with the Services performed by Contractor pursuant to this Agreement.

**24. INSURANCE REQUIREMENTS.**

During the term of this Agreement, and for any time period set forth in Exhibit C, Contractor shall provide and maintain in full force and effect, at no cost to City insurance policies with respect to employees and vehicles assigned to the Performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in Exhibit C.

**25. AMENDMENTS.**

This Agreement may be amended only with the written consent of both Parties.

**26. INTEGRATED DOCUMENT.**

This Agreement represents the entire agreement between City and Contractor. No other understanding, agreements, conversations, or otherwise, with any representative of City prior to execution of this Agreement shall affect or modify any of the terms or obligations of this Agreement. Any verbal agreement shall be considered unofficial information and is not binding upon City.

**27. SEVERABILITY CLAUSE.**

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

**28. WAIVER.**

Contractor agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement.

**29. NOTICES.**

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara  
Attention: [insert Dept. here]  
1500 Warburton Avenue  
Santa Clara, California 95050  
or by facsimile at (408) \_\_\_\_ - \_\_\_\_

And to Contractor addressed as follows:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
or by facsimile at (\_\_\_\_) \_\_\_\_ - \_\_\_\_

If notice is sent via facsimile, a signed, hard copy of the material shall also be mailed. The workday the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday.

**30. CAPTIONS.**

The captions of the various sections, paragraphs and subparagraphs of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

**31. LAW GOVERNING CONTRACT AND VENUE.**

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

**32. DISPUTE RESOLUTION.**

A. Unless otherwise mutually agreed to by the Parties, any controversies between Contractor and City regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.

- B. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement.
- C. The costs of mediation shall be borne by the Parties equally.
- D. For any contract dispute, mediation under this section is a condition precedent to filing an action in any court. In the event of mediation which arises out of any dispute related to this Agreement, the Parties shall each pay their respective attorney's fees, expert witness costs and cost of suit through mediation only. If mediation does not resolve the dispute, the Parties agree that the matter shall be litigated in a court of law, and not subject to the arbitration provisions of the Public Contracts Code.

### **33. COMPLIANCE WITH ETHICAL STANDARDS.**

Contractor shall:

- A. Read Exhibit D, entitled "ETHICAL STANDARDS FOR CONTRACTORS SEEKING TO ENTER INTO AN AGREEMENT WITH THE CITY OF SANTA CLARA, CALIFORNIA"; and,
- B. Execute Exhibit E, entitled "AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS."

### **34. AFFORDABLE CARE ACT OBLIGATIONS**

To the extent Contractor is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Contractor warrants that it is meeting its obligations under the Act and will fully indemnify and hold harmless City for any penalties, fines, adverse rulings, or tax payments associated with Contractor's responsibilities under the Act.

### **35. LIQUIDATED DAMAGES.**

It is mutually agreed by Contractor and City that, in the event completion of the Services to be provided by the Contractor under this Agreement is delayed beyond \*insert date, City will suffer damages and will incur other costs and expenses of a nature and amount which is difficult or impractical to determine. The Parties agree that by way of ascertaining and fixing the amount of damages, costs and expenses, and not by way of penalty, Contractor shall pay to City the sum of \*spell out dollar amount (\$\*insert numerical dollar amount) per day in liquidated damages for each and every calendar day such delay in completion of said Services continues beyond \*insert date. In the event that said liquidated damages are not paid, Contractor agrees that City may deduct the amount of said unpaid damages from any money due or that may become due to Contractor under this Agreement.

**36. CONFLICT OF INTERESTS.**

This Agreement does not prevent either Party from entering into similar agreements with other parties. To prevent a conflict of interest, Contractor certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor is familiar with the provisions of California Government Code Section 87100 and following, and certifies that it does not know of any facts which would violate these code provisions. Contractor will advise City if a conflict arises.

**37. PROGRESS SCHEDULE.**

The Progress Schedule will be as set forth in the attached Exhibit F, entitled "MILESTONE SCHEDULE" if applicable.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument; and, the Parties agree that signatures on this Agreement, including those transmitted by facsimile, shall be sufficient to bind the Parties.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. The Effective Date is the date that the final signatory executes the Agreement. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

**CITY OF SANTA CLARA, CALIFORNIA**  
a chartered California municipal corporation

APPROVED AS TO FORM:

Dated: \_\_\_\_\_

\_\_\_\_\_  
BRIAN DOYLE  
Interim City Attorney

\_\_\_\_\_  
RAJEEV BATRA  
City Manager  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

ATTEST:

\_\_\_\_\_  
ROD DIRIDON, JR.  
City Clerk

"CITY"

**\*INSERT CONTRACTOR'S NAME**  
\*choose one: corporation/partnership/individual

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Person executing the Agreement on behalf of Contractor)  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Local Address: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Telephone: (     ) \_\_\_\_\_  
Fax: (     ) \_\_\_\_\_

“CONTRACTOR”

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**AGREEMENT FOR THE PERFORMANCE OF SERVICES  
BY AND BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND**

**\*INSERT CONTRACTOR'S NAME**

**EXHIBIT A**

**SCOPE OF SERVICES**

The Services to be performed for the City by the Contractor under this Agreement are more fully described in the Contractor's proposal entitled, "**\*insert name of proposal**" dated **\*insert date of proposal**, which is attached to this Exhibit A.

**AGREEMENT FOR THE PERFORMANCE OF SERVICES  
BY AND BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND**

**\*INSERT CONTRACTOR'S NAME**

**EXHIBIT B**

**FEE SCHEDULE**

Consultant shall provide a schedule of rates and fees which includes all billing amounts and costs as follows (if applicable), such as :

[This Exhibit "B" should contain a schedule of rates and fees which includes all billing amounts and costs as follows (if applicable), such as:

- Fee Schedule Effective Date;
- Hourly Billing Rates for Each Staff Position/level;
- Minimum Billing Hours;
- Charges for Equipment by Day/week/month;
- Travel Time and Costs;
- Per Diem Expenses;
- Expendable Material or New Parts Costs;
- Outside Services Costs; and,
- Overtime Costs.]

In no event shall the amount billed to City by Contractor for services under this Agreement exceed \*spell out dollar amount (\$\*insert numerical dollar amount), subject to budget appropriations.



**AGREEMENT FOR THE PERFORMANCE OF SERVICES  
BY AND BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND**

**\*INSERT CONTRACTOR'S NAME**

**EXHIBIT C**

**INSURANCE REQUIREMENTS**

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

**A. COMMERCIAL GENERAL LIABILITY INSURANCE**

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

\$1,000,000 Each Occurrence  
\$2,000,000 General Aggregate  
\$2,000,000 Products/Completed Operations Aggregate  
\$1,000,000 Personal Injury

2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:
  - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
  - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
  - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated wastes and/or hazardous or regulated materials, Contractor and/or its subcontractors involved in such activities shall provide coverage with a limit of two million dollars (\$2,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the

Indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance Indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.

3. Cancellation.

- a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.
- b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Exhibit C, above.

E. **ADDITIONAL INSURANCE RELATED PROVISIONS**

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

3. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

F. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

G. EVIDENCE OF COMPLIANCE

Contractor or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Contractor shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.

City of Santa Clara [\*insert City department name here]

P.O. Box 100085 – S2

or

1 Ebix Way

Duluth, GA 30096

John's Creek, GA 30097

Telephone number: 951-766-2280

Fax number: 770-325-0409

Email address: ctsantaclara@ebix.com

H. QUALIFYING INSURERS

All of the insurance companies providing insurance for Contractor shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.

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**AGREEMENT FOR THE PERFORMANCE OF SERVICES  
BY AND BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND**

**\*INSERT CONTRACTOR'S NAME**

**EXHIBIT D**

**ETHICAL STANDARDS FOR CONTRACTORS SEEKING TO ENTER INTO AN  
AGREEMENT WITH THE CITY OF SANTA CLARA, CALIFORNIA**

**Termination of Agreement for Certain Acts.**

- A. The City may, at its sole discretion, terminate this Agreement in the event any one or more of the following occurs:
1. If a Contractor<sup>1</sup> does any of the following:
    - a. Is convicted<sup>2</sup> of operating a business in violation of any Federal, State or local law or regulation;
    - b. Is convicted of a crime punishable as a felony involving dishonesty<sup>3</sup>;
    - c. Is convicted of an offense involving dishonesty or is convicted of fraud or a criminal offense in connection with: (1) obtaining; (2) attempting to obtain; or, (3) performing a public contract or subcontract;
    - d. Is convicted of any offense which indicates a lack of business integrity or business honesty which seriously and directly affects the present responsibility of a City contractor or subcontractor; and/or,
    - e. Made (or makes) any false statement(s) or representation(s) with respect to this Agreement.

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<sup>1</sup> For purposes of this Agreement, the word "Consultant" (whether a person or a legal entity) also refers to "Contractor" and means any of the following: an owner or co-owner of a sole proprietorship; a person who controls or who has the power to control a business entity; a general partner of a partnership; a principal in a joint venture; or a primary corporate stockholder [i.e., a person who owns more than ten percent (10%) of the outstanding stock of a corporation] and who is active in the day to day operations of that corporation.

<sup>2</sup> For purposes of this Agreement, the words "convicted" or "conviction" mean a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere within the past five (5) years.

<sup>3</sup> As used herein, "dishonesty" includes, but is not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, failure to pay tax obligations, receiving stolen property, collusion or conspiracy.

2. If fraudulent, criminal or other seriously improper conduct of any officer, director, shareholder, partner, employee or other individual associated with the Contractor can be imputed to the Contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the Contractor, with the Contractor's knowledge, approval or acquiescence, the Contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence.
- B. The City may also terminate this Agreement in the event any one or more of the following occurs:
1. The City determines that Contractor no longer has the financial capability<sup>4</sup> or business experience<sup>5</sup> to perform the terms of, or operate under, this Agreement; or,
  2. If City determines that the Contractor fails to submit information, or submits false information, which is required to perform or be awarded a contract with City, including, but not limited to, Contractor's failure to maintain a required State issued license, failure to obtain a City business license (if applicable) or failure to provide and maintain bonds and/or insurance policies required under this Agreement.
- C. In the event a prospective Contractor (or bidder) is ruled ineligible (debarred) to participate in a contract award process or a contract is terminated pursuant to these provisions, Contractor may appeal the City's action to the City Council by filing a written request with the City Clerk within ten (10) days of the notice given by City to have the matter heard. The matter will be heard within thirty (30) days of the filing of the appeal request with the City Clerk. The Contractor will have the burden of proof on the appeal. The Contractor shall have the opportunity to present evidence, both oral and documentary, and argument.

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<sup>4</sup> Contractor becomes insolvent, transfers assets in fraud of creditors, makes an assignment for the benefit of creditors, files a petition under any section or chapter of the federal Bankruptcy Code (11 U.S.C.), as amended, or under any similar law or statute of the United States or any state thereof, is adjudged bankrupt or insolvent in proceedings under such laws, or a receiver or trustee is appointed for all or substantially all of the assets of Contractor.

<sup>5</sup> Loss of personnel deemed essential by the City for the successful performance of the obligations of the Contractor to the City.

**AGREEMENT FOR THE PERFORMANCE OF SERVICES  
BY AND BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND**

**\*INSERT CONTRACTOR'S NAME**

**EXHIBIT E**

**AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS**

I hereby state that I have read and understand the language, entitled "Ethical Standards" set forth in Exhibit D. I have the authority to make these representations on my own behalf or on behalf of the legal entity identified herein. I have examined appropriate business records, and I have made appropriate inquiry of those individuals potentially included within the definition of "Contractor" contained in Ethical Standards at footnote 1.

Based on my review of the appropriate documents and my good-faith review of the necessary inquiry responses, I hereby state that neither the business entity nor any individual(s) belonging to said "Contractor" category [i.e., owner or co-owner of a sole proprietorship, general partner, person who controls or has power to control a business entity, etc.] has been convicted of any one or more of the crimes identified in the Ethical Standards within the past five (5) years.

The above assertions are true and correct and are made under penalty of perjury under the laws of the State of California.

**\*INSERT CONTRACTOR'S NAME**

**\*choose one: a corporation/partnership/individual**

By: \_\_\_\_\_  
Signature of Authorized Person or Representative

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**NOTARY'S ACKNOWLEDGMENT TO BE ATTACHED**

Please execute the affidavit and attach a notary public's acknowledgment of execution of the affidavit by the signatory. If the affidavit is on behalf of a corporation, partnership, or other legal entity, the entity's complete legal name and the title of the person signing on behalf of the legal entity shall appear above. Written evidence of the authority of the person executing this affidavit on behalf of a corporation, partnership, joint venture, or any other legal entity, other than a sole proprietorship, shall be attached.

**AGREEMENT FOR THE PERFORMANCE OF SERVICES  
BY AND BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND**

**\*INSERT CONTRACTOR'S NAME**

**EXHIBIT F**

**MILESTONE SCHEDULE**

(If Applicable)